

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA

| | | |
|----------------------------------|---|------------------|
| THE UNITED STATES OF AMERICA, |) | |
| ex rel. JOSEPH M. THOMAS, |) | |
| bringing this Action on Behalf |) | |
| of the United States of America, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Civil Action No. |
| |) | 1:17CV276 |
| |) | |
| DUKE UNIVERSITY, DUKE |) | |
| UNIVERSITY HEALTH SYSTEM, INC., |) | |
| WILLIAM M. FOSTER, Ph.D., |) | |
| and ERIN N. POTTS-KANT, |) | |
| |) | |
| Defendants. |) | |

STIPULATION AND ORDER OF DISMISSAL

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the United States of America (United States), Relator Joseph M. Thomas (Relator), Duke University and Duke University Health System, Inc. (Duke), William M. Foster, Ph.D. (Foster), and Erin N. Potts-Kant (Potts-Kant), hereby stipulate that the claims of the Relator and the United States against Duke, Foster, and Potts-Kant are dismissed as follows:

1. With prejudice as to the Relator and as to the United States with respect to the "Covered Conduct" as defined in, pursuant to and consistent with the terms and conditions of the Settlement Agreement entered into by Relator, the United States, and Duke on March 22, 2019 (Settlement Agreement);

2. Without prejudice to the United States as to all other claims;

3. With prejudice as to the Relator and without prejudice as to the United States with respect to the 39 grants listed in Attachment B to the Settlement Agreement, for which Relator has no evidence of falsity submitted in claims related to those grants;

4. With prejudice as to the Relator as to all claims against Foster and Potts-Kant, and;

5. Without prejudice as to the United States as to all claims against Foster and Potts-Kant; and with prejudice as to the Relator as to all other claims, except for Relator's claim(s) for expenses, attorneys' fees, and costs under 31 U.S.C. § 3730(d)(2).

The Court shall retain jurisdiction in this case to resolve any dispute between Duke and the Relator as to the Relator's expenses, attorneys' fees, and costs. Should Duke and the Relator not resolve this issue, the Relator may, within 60 days of the date this Stipulation is filed, file a motion requesting an award of his expenses, attorney's fees, and costs pursuant to 31 U.S.C. § 3730(d)(2) and LR 54.2.

SO ORDERED:

Catherine C. Eagles
United States District Court Judge

STIPULATED TO BY:

MATTHEW G.T. MARTIN
United States Attorney

/s/ Cheryl T. Sloan
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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2019, the foregoing was electronically filed with the Clerk of this Court using the CM/ECF system, and I hereby certify that the document was served via that system on the following CM/ECF participants:

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This the 1st day of July, 2019.

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